IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

WP(C).No. 16740 of 2007(P)

AGAINST THE ORDER DATED 27/11/2006 IN EA 806/06 IN EP 19/06 IN OS.275/2001 of ADDL.SUB COURT,PARAVUR

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PETITIONER:

HARIHARAN, S/O KOCHAYYAPPAN,
AGED 45 YEARS, KURIYATHALATH VEEDU,
ALANGAD VILLAGE, PARAVUR TALUK.

BY ADV. SRI.DINESH MATHEW J.MURICKEN

RESPONDENT:

RATNAMMA, W/O KESAVAN KARTHA,
AMBAT VEEDU, KOTTAPURAM, ALANGAD, PARAVUR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C)No.16740 OF 2007

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Dated this the 1st day of June, 2007

JUDGMENT

This writ petition is filed against the order in E.A.No.806 of 2006 in E.P.No.19 of 2006 in O.S.No.275 of 2001 of the Addl.Sub Court, North Paravur. The application is filed to lift the attachment clamped on the plaint schedule property under Order XXXVIII Rule 5 C.P.C. . The facts of the case would reveal that in the trial court attachment before judgment was ordered and property was furnished for the purpose of security of the decree debt. Learned counsel for the revision petitioner submits that he is prepared to furnish sufficient security to the satisfaction of the execution court to release the earlier order and it may be considered.

2. So far as the decree holder is concerned he needs only a proper security for the decree debt which is obtained in a suit. Therefore there is nothing wrong in giving such an opportunity to the applicant. But unfortunately this contention or this prayer was not made in the application for lifting the attachment before judgment. Therefore I cannot blame the executing court for disallowing the prayer.

3. Considering the present request an opportunity is given to the writ petitioner to move an appropriate application before court for substitution of the security and on satisfaction of the court it may release the previous security and accept the security proposed to be furnished by the applicant. The other side shall also be heard before passing final orders in the matter.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-